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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/583,233

01/17/2008

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T3106(C)

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EXAMINER

DAVIS, DEBORAH A

ART UNIT

PAPER NUMBER

1655

NOTIFICATION DATE

DELIVERY MODE

08/16/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentgroupus@unilever.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/583,233	<b>Applicant(s)</b> BARRETT ET AL.
	<b>Examiner</b> DEBORAH DAVIS	<b>Art Unit</b> 1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6,7,16 and 18 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

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|--|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br/>Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)<br/>Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
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### **DETAILED ACTION**

Applicants' amendment filed 6-2-11 has been received and entered. Currently, claims 6-16 and 18 are pending and under consideration for examination.

#### ***Claim Objections***

Claim 16 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 16 is dependent on a cancelled claim and therefore does not further limit the parent claim.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-7 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The dependency of claims 6-7 are unclear because they depend from a cancelled claim 4 and claim 18. The number 4 should have a strike through to eliminate confusion.

The dependency of claim 16 is also unclear because it depends from cancelled claim 4 which renders the dependency of the claim unclear.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahe et al. (US 2004010503).

The claims are drawn to a method of reducing the effects of neuroendocrine-mediated psychologically-induced stress on the skin of a human desiring to reduce psychologically-induced stress on their skin, said method comprising administering to said human a composition comprising a first substance selected from the group consisting of ginsenoside Rb1, ginsenoside Rc, curcumin, 22-OH-cholesterol, ciglitazone, mevinolin, commiphelic acid, okadaic acid, and mixtures thereof; and a second substance selected from the group consisting of wolfberry extract, shiitake extract, activin, ginseng Rb1, ginseng Rc, curcumin, ciglitazone, commiphelic acid, boswellia extract and mixtures thereof, provided that said first substance and second substance are different.

The reference of Mahe et al. read on the subject matter of the claims by teaching a cosmetic method of enhancing the skin's resistance to the effects of complement activation. The method of enhancing the skin's resistance to the effects of complement can read on reducing psychologically-induced stress on the skin. The method relates to

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the use of substances which strengthen the skin's resistance by activating the production of protectin or protectin precursor by skin cells, in particular in cosmetic or dermatological compositions. The substances can be included in a composition that can comprise a protectin activator and anti-inflammatories. The protectin activator can include claimed ingredient ginsenoside Rb1 and the anti-inflammatory can include the claimed ingredient *Boswellia serrata* as active ingredients (see e.g. paragraphs 0035, 0052, 0066, and 0102). The first and the second ingredients are clearly different which is required by the instant claims. The composition can be administered topically and orally (see e.g. paragraph 0077).

The cited art of Mahe et al. does not expressly teach both of the claimed ingredients of ginsenoside Rb1 and *Boswellia serrata* in the same composition.

However, it would have been obvious to prepare a composition comprising both ginsenoside Rb1 and *Boswellia serrata* based on the benefits that they provide to the skin. In particular the anti-inflammatory effects that is provided by *Boswellia serrata* and the protectin activator effects of ginsenoside Rb1 that protect skin against the negative effects of complement.

From the teachings of the reference, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was prima facie obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the reference, especially in the absence of the evidence to the contrary.

***Response to Arguments***

Applicant has amended the claims to overcome the cited prior art of Majeed et al. Therefore, applicant's arguments with respect to the rejection of Majeed et al. have been considered but are moot in view of the new ground(s) of rejection above.

***Conclusion***

No claim is allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEBORAH DAVIS whose telephone number is (571)272-0818. The examiner can normally be reached on 8-5 Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Deborah A. Davis  
Patent Examiner, AU 1655  
August 2011

/Christopher R Tate/  
Primary Examiner, Art Unit 1655